THE HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No. 20254 of 2005

ORDER:

Sri Vengamamba Granites, a firm, is the petitioner. The firm prays for a Writ of Mandamus declaring the action of the respondents in not granting incentives to its industry in accordance with the policy guidelines contained in G.O.Ms.No.108, Industries & Commerce (IP) dated 20-05-1996 as illegal and arbitrary. The petitioner also seeks consequential directions as may be appropriate.

The petitioner established an industrial unit for manufacturing Granite slabs (cutting and polishing) after obtaining necessary permissions and registration. Permission was granted to operate the unit in Sy.No.274 of Venkatagiri Village, Khammam District, through Proceedings dated
04-10-1999. The Government issued orders in G.O.Ms.No.108 dated
20-05-1996 introducing "liberalized incentive scheme" (L.I.S). As per L.I.S., the industrial units set up and going into production within the specified period are entitled for investment subsidy to the extent of 25% on fixed capital not exceeding an amount of Rs.50.00 lakhs and rebate in electricity charges for a period of 3 years from the date of commencement of the production. The G.O. also grants exemption for a period of 7 years on payment of Sales Tax to the extent of 135% on fixed capital investment. This benefit will be available for those industries commencing commercial production during the period from 15-11-1995 to 01-04-2000.

The petitioner alleged that pursuant to a notification issued by the
3rd respondent, i.e., the Commissioner of Industries, on 30-11-2000, the petitioner made an application to treat its industry as pipeline industry in accordance with G.O.Ms.No.588 dated 20-11-2000. The Commissioner accordingly granted a certificate on 19-01-2001 giving eligibility to petitioner's unit as "pipeline industry". The fourth respondent, by letter dated 25-01-2001, advised the petitioner to submit details of production for the month of September, 2000. It is alleged that petitioner commenced production on 30-03-2000, but on the advice of the staff of the District Industries Centre, the petitioner mentioned the date of commencement of production as 20-09-2000. The General Manager, District Industries Centre, Khammam, fourth respondent, by Proceedings dated 26-05-2003, rejected the request for grant of electricity rebate on the ground that the petitioner is not eligible.

The learned counsel for the petitioner made elaborate submissions. In sum and substance, it is urged that as per G.O.Ms.No.588 dated
20-11-2000 and the certificate issued by the third respondent on
19-01-2001, the petitioner's industry has to be treated as pipeline industry, in which event, as of right, the petitioner is entitled for investment subsidy and rebate in

electricity charges. Therefore, according to the learned counsel, the orders of rejection issued by the 3rd respondent is illegal. These contentions and submissions are opposed by the learned Government Pleader for Industries.

This Court has considered the question of right of the petitioner to claim investment subsidy and other concessions in the light of the orders issued in G.O.Ms.No.108 dated 20-05-1996 (L.I.S.) and G.O.Ms.No.588 dated 20-11-2000. As per L.I.S., the incentive scheme for setting up new industries introduced in G.O.Ms.No.498 dated 16-10-1989 for a period of
3 years was liberalized. The L.I.S., was however, restricted
(as per Para 6.01) only to new industrial units which would go into commercial production on or after 15-11-1995. After considering the application made by the petitioner, the third respondent issued certificate to the effect that the petitioner became eligible for the status of pipeline industry as per G.O.Ms.No.588 dated 20-11-2000. It was further made clear that the petitioner would be eligible to claim incentives only if it starts commercial production on 31-03-2002. However, the petitioner had already commenced production and claimed incentive under L.I.S., (as seen from the letter of the fourth respondent dated 26-05-2003) and therefore, the Commissioner clarified that change of date of commencement of production from 20-09-2000 to 30-03-2000 cannot be considered as the petitioner already availed Sales Tax incentives.

Though the fourth respondent informed the Managing Partner of the petitioner that their unit is not eligible for any incentives, curiously, the said communication is not challenged in this writ petition. Further, even according to the petitioner, in their application to the fourth respondent, the petitioner mentioned that they commenced production on 20-09-2000 which was prior to issue of G.O.Ms.No.588 dated 20-11-2000, and hence cannot be treated as pipeline industry. Furthermore, as seen from the communication of the fourth respondent dated 26-05-2003, the petitioner already availed Sales Tax incentives, claiming the commencement of production earlier. The action of the respondents in rejecting the claim of the petitioner for incentives, therefore, cannot be termed as illegal or arbitrary.

The writ petition is devoid of any merit and is accordingly dismissed. No costs.

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(V.V.S. RAO, J)

14-09-2005

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